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**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Spectron Caribe, Inc.

File: B-224251

Date: November 25, 1986

DIGEST

1. Alleged failure by contracting agency to comply with internal instructions regarding preissuance approval of solicitation is a matter for consideration within the agency itself rather than through the bid protest process.
2. General Accounting Office will not review contracting agency's affirmative determination of responsibility absent showing of possible fraud or bad faith by contracting officials or that solicitation included definitive responsibility criteria that were not applied.

DECISION

Spectron Caribe, Inc., protests the Department of the Navy's award of a contract to CESI/ANACON under request for proposals (RFP) No. N68836-86-R-0054 for spectrometric oil analysis for the Navy, Air Force and Army. Spectron Caribe complains that the Navy did not follow its own internal procedures in issuing the RFP, and that CESI/ANACON is not a responsible firm.

We dismiss the protest.

Spectron Caribe protests that the Navy failed to submit the solicitation to the Navy Oil Analysis Program (NOAP) Manager for review before issuance, as required by the Navy's internal instructions for its oil analysis program. In response, the Navy concedes the point, but asserts it discussed the RFP with other cognizant NOAP and Army Oil Analysis Program personnel, who approved its issuance.

We will not consider the matter. An agency's internal instructions and procedures do not have the force and effect of law, so that the alleged failure to comply with them in a particular instance involves a matter for consideration within the agency itself, rather than through the bid protest process. See True Machine Co., B-215885, Jan. 4, 1985, 85-1 C.P.D. ¶ 18. In

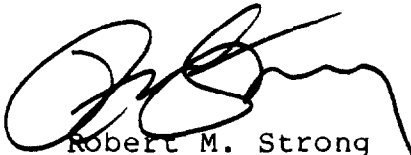
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any event, Spectron Caribe does not explain how, and we do not see how, the firm might have been prejudiced in the competition by the alleged procedural deficiency.

Spectron Caribe also protests that CESI/ANACON is nonresponsible in that the firm does not have the equipment and personnel, and is not located close enough to the activities to be serviced, to perform the contract properly.

We dismiss the protest on this issue. The solicitation provided that the contract would be awarded to the technically acceptable offeror submitting the lowest price. The Navy received seven proposals, with CESI/ANACON offering the lowest price. The agency then determined, based on a preaward survey, that CESI/ANACON was capable of meeting its obligations under the contract. Our Office will not review a protest of such an affirmative determination of responsibility absent a showing of either possible fraud or bad faith on the part of contracting officials, or that the solicitation included definitive responsibility criteria that were not applied. 4 C.F.R. § 21.3(f)(5) (1986). Neither exception is involved here.

The protest is dismissed.



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